

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

MEYNARD DESIGNS, INC. AND
EARTH, INC.

Plaintiffs and
Counterclaim-Defendants,

v.

EARTH PRODUCTS INC.

Defendant and
Counterclaim-Plaintiff.

EARTH PRODUCTS INC.

CIVIL ACTION NO. 05 cv 11781 NMG

Third-Party Plaintiff and
Counterclaim-Defendant,

v.

PLANET, INC.

Third-Party Defendant and
Counterclaim-Plaintiff.

STIPULATION AND REQUEST FOR EXTENSION OF VARIOUS DEADLINES

Due to scheduling difficulties of the Parties and intervening trials on other matters to be handled by lead counsel representing the Parties, the Parties have encountered difficulties with the discovery and trial schedule as previously set. Accordingly, the Parties have conferred and respectfully request that the Court enter new discovery and trial deadlines as follows:

| Deadline | Current Date | Proposed Date |
|---|--------------------|---|
| Close of Fact Discovery | August 31, 2007 | December 15, 2007 [*] |
| Referral to ADR | Late September | Late December |
| Expert Reports (for subjects on which the party bears the burden of proof) | September 30, 2007 | December 10, 2007 |
| Rebuttal Expert Reports | October 31, 2007 | January 15, 2008 |
| Dispositive Motions | November 30, 2007 | February 1, 2008 |
| Oppositions to Dispositive Motions | none | February 22, 2008 |
| Replies Supporting Dispositive Motions | none | March 7, 2008 |
| Pretrial Conference | March 12, 2008 | June 12, 2008 [†] (or other date convenient to the Court) |
| Trial | April 7, 2008 | July 7, 2008 (or other date convenient to the Court) |

The Parties have previously requested and received an extension of the intermediate written discovery deadlines, but they have not previously requested an extension of the ultimate close of discovery or any other trial related deadlines. It is believed that the current extension is

^{*} The initial order included a deadline for written discovery as well as a general fact discovery cutoff. As a result of confusion as to the meaning of written discovery, the Parties have agreed and include as part of this stipulation that the deadline for serving upon the Parties document requests, requests for admissions and interrogatories is passed and not re-opened by this stipulation. However, the Parties agree that subpoenas to third parties for documents can be issued through October 1, 2007 provided documents are requested for production by October 31 (the Parties may agree to reasonable extensions of that deadline through November 30). The Parties agree and include as part of this stipulation that they will complete their document production and provide privilege logs no later than October 1, 2007, provided, however, that document productions and privilege logs can be supplemented through the close of fact discovery should documents previously unknown to the attorneys for any party be discovered after October 1, 2007. In addition, depositions of any witnesses and supplementation of any discovery responses may occur through the proposed close of discovery, December 15, 2007.

necessary to address the scheduling concerns of the Parties and their attorneys. Accordingly, through the undersigned counsel, the Parties stipulate to the schedule proposed above and move that the Court amend the scheduling order to reflect those proposed deadlines.

Respectfully submitted,

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Earth Products Inc.

Dated: August 30, 2007

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: _____

USDJ, United States District Court

[†] The Parties would prefer to avoid the expense of trial preparation if dispositive motions that could resolve the dispute or narrow the issues for trial are pending. Therefore, as an alternative to the dates proposed for pre-trial conference and trial, the Parties would be amenable to a schedule that sets the pre-trial conference and trial for some period of days after the ruling on all dispositive motions.

Certificate of Service

I certify that this document is being filed through the Court's electronic filing system, which serves counsel for other parties who are registered participants as identified on the Notice of Electronic Filing (NEF). Any counsel for other parties who are not registered participants are being served by first class mail on the date of electronic filing.

/s/ Laura Topper